



South Carolina Department of Health
and Environmental Control

**DIVISION OF UST MANAGEMENT
BUREAU OF LAND AND WASTE MANAGEMENT**

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Financial Responsibility Mechanisms Information Sheet

A single mechanism, or a combination of mechanisms, can be used to provide Financial Responsibility. An owner or operator using the state fund must also use one or more of the other mechanisms for the deductible, currently \$25,000 *per occurrence*. Please note the state fund requires that all other financial responsibility mechanisms being used must be exhausted before the state fund can be used.

The following information is only an outline of the various financial responsibility mechanisms. Specific language that must be used for the tests, policies, or letters can be found in the South Carolina Underground Storage Tank Control Regulations, R.61-92, Part 280. The documentation required to be submitted with the Certificate of Financial Responsibility is listed with each mechanism.

Financial Responsibility Mechanisms

1. State Fund (Superb)

The State Underground Petroleum Environmental Response Bank (SUPERB) Account can be used to cover site rehabilitation costs and the SUPERB Financial Responsibility Fund to cover third-party claims. The two state assurance funds provide a combined maximum coverage of \$1,000,000 *per occurrence* to cover these costs **after payment of the deductible.**

Required Documentation – Proof of any mechanism listed below

2. Self-Insurance
Section 280.95

The owner or operator must pass a financial test as specified in Section 280.95. Refer to Section 280.95 for tests and language to be used.

Required Documentation – Financial self-test letter from Chief Financial Officer
Report prepared by CPA as stated in Section 280.95

Section 280.101

The owner or operator uses this method of self-insurance in conjunction with the state fund. Self-insurance requires that an owner or operator show an actual net worth of \$50,000. An annual financial statement and letter prepared by a **Certified Public Accountant, Licensed Public-Account, a board-licensed Accounting Practitioner or the chief financial officer of the company** must be provided. A list of these professional is available on the South Carolina Department of Labor, Licensing and Regulation's website at <http://verify.llronline.com/LicLookup/LookupMain.aspx>.

Required Documentation – Annual financial Statement and letter from one of the above entities.

3. Guarantee

A guarantee is a promise by a third party (the guarantor) to fund a standby trust fund. The guarantee is issued by a third party with a significant business interest in the owner or operator. The third party must prove information outlined in (2) above. Refer to Section 280.97 for language to be used.

Required Documentation – Guarantee

Annual financial Statement from Guarantor and letter from **Certified Public Accountant, Licensed Public-Account, a board-licensed Accounting Practitioner or the chief financial officer of the company.**

4. **Pollution Liability Insurance**
The owner or operator obtains liability insurance from a qualified insurer or risk retention group. The policy must specifically address releases from USTs. Refer to Section 280.98 for language to be used.

Required Documentation – Copy of Policy or Certificate of Insurance Endorsement

5. **Surety Bond**
A surety bond is a guarantee by a surety company that will meet the obligation of the owner or operator. Surety companies eligible to issue surety bonds are listed in Circular 570, issued annually by the U.S. Department of the Treasury. Refer to Section 280.98 for language to be used.

Required Documentation – Surety Bond

6. **Letters of Credit**
A letter of credit is a contract between the issuer (normally a bank), the principal (the UST owner or operator), and the third party (DHEC). The issuer promises to pay a certain amount to the third party in the event the principal fails to meet an obligation. Letters of credit are negotiable and are stored in a vault at DHEC. Refer to Section 280.99 for language to be used.

Required Documentation – Letter of Credit

7. **Trust Fund**
The owner or operator may establish a fully funded trust fund. Money for the corrective action and third-party liability costs is held and managed by an impartial third party (trustee). Trustee must have authority to act as trustee and be regulated and examined by a federal agency or a South Carolina Agency. The trust fund may be funded for the full-required amount or funded for part of the required amount in combination with another mechanism. Refer to Section 280.102 for language to be used.

Required Documentation – Trust Fund Agreement
Certification of Acknowledgement

8. **Local Government Options**
Local government entities may use a bond rating test, a financial test, issue a guarantee, or dedicate a fund to meet financial responsibility requirements. Refer to Section 280.107-107 for tests and language.

Required Documentation – Letter from Chief Financial Officer
Local Government Guarantee
With Standby Trust
Local Government Guarantee
With-out Standby Trust